

applies to patents, not printed publications. Excel 97 is a printed publication, not a patent.

Therefore Excel 97 cannot be the basis of a 35 U.S.C. § 102(e) rejection.

In view of the above, it is respectfully requested that the rejections are withdrawn.

III. EXCEL 97 IS ALSO NOT A PROPER BASIS FOR A 35 U.S.C. § 102(a) OR A 35 U.S.C. § 102(b) REJECTION

The Applicant also notes that Excel 97 is also not a proper basis for a 35 U.S.C. § 102(a) OR 35 U.S.C. § 102(b) rejection. The Examiner provides no publication date for Excel 97. The only conclusion that can be drawn about the publication date is that it was published sometime in 1997, since page 1 contains the text "Copyright (c) 1985-1997."

Regarding 35 U.S.C. § 102(b), in order for Excel 97 to be considered prior art, it must have been published one year before the date of application for patent. The present Application was filed in the U.S. On January 27, 1998. Thus, for Excel 97 to be considered prior art under 35 U.S.C. § 102(b), it would have to have been published before January 27, 1997. Excel 97 could have been published after this date.

Regarding 35 U.S.C. § 102(a), Excel 97 must have been published before the invention of the present invention. The present Application was filed in the U.S. on January 27, 1998, claiming priority from a foreign Application filed on June 20, 1997. Excel 97 could have been published before June 20, 1997. If the Examiner were to assert a rejection under 35 U.S.C. § 102(a), a verified translation of the priority document could be submitted, thereby perfected the claim to foreign priority.

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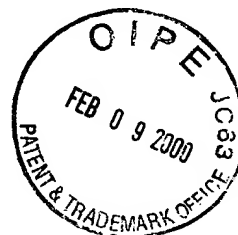
Under MPEP 706.02(a), **the Examiner must determine the issue or publication date of the reference.** Here, the Examiner has only established that the publication was published sometime in 1997, which with regard to the present Application, is not sufficient to be considered prior art under any of the sections 35 U.S.C. § 102.

Therefore, in view of the above, withdrawal of the rejections is respectfully requested.

IV. EXCEL 97 DOES NOT ANTICIPATE THE INVENTION AS CLAIMED

Even though the Examiner's rejections are improper, as discussed above, the Applicant nevertheless maintains that Excel 97 does not anticipate the present invention as claimed. However, because the Examiner's rejections of all claims under 35 U.S.C. § 102(e) are improper, the Applicant will not make any remarks regarding the art at this time.

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Examiner: Huynh, C
Group Art Unit: 2776

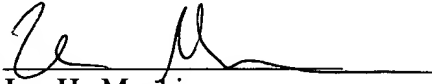
V. CONCLUSION

In view of the above, it is respectfully submitted that the Application is in condition for allowance, which action is earnestly solicited.

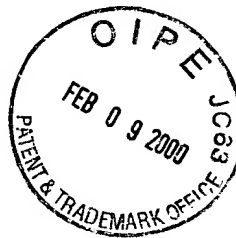
If any further fees are required in connection with the filing of this Amendment, please charge same to our Deposit Account No. 19-3935.

Respectfully submitted,

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